

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION**

**Civil Action Number 4:24-CV-00051-M-RN**

<b>CYNTHIA B. AVENS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>PITT COUNTY MEMORIAL HOSPITAL,</b>
	)	<b>INC.'S RESPONSE TO PLAINTIFF'S</b>
<b>FARIS C. DIXON, JR., DISTRICT</b>	)	<b>NOTICE TO DISCUSS RESOLUTION</b>
<b>ATTORNEY, PITT COUNTY</b>	)	
<b>MEMORIAL HOSPITAL, INC., DR.</b>	)	
<b>KAREN KELLY, MEDICAL EXAMINER,</b>	)	
<b>JOHN/JANE DOE, and JOHN/JANE DOE,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
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In accordance with the Court's July 9, 2025 Order (D.E. 100), Defendant Pitt County Memorial Hospital, Inc. d/b/a ECU Health Medical Center ("ECU Health") respectfully submits this Response to Plaintiff Cynthia B. Avens' ("Avens") "Notice to Discuss Resolution" ("Notice") (D.E. 99).

ECU Health respectfully submits that the Notice cannot be construed as a request for relief from this Court. Instead, Avens merely "notifies the Court and Defendants that ... she is willing to consider a resolution outside of continued litigation." (D.E. 99; *see* D.E. 101 (confirming the Notice does not include, and was not intended to be, a request for relief from the Court related to settlement)). For that reason alone, the Court should not afford any relief in response to the Notice.

In any event, no relief is warranted. In his Memorandum and Recommendation on Defendants' Motions to Dismiss, Magistrate Judge Robert T. Numbers, II recommended that each of Avens' federal claims against ECU Health should be dismissed for failure to state a claim and that the Court should decline to exercise supplemental jurisdiction over Avens' state law claims.

(D.E. 87). Avens has filed an Objection to the Memorandum and Recommendation, though the grounds for the Objection are not entirely clear as it relates to the recommendation that her claims against ECU Health should be dismissed for failure to state a claim. (D.E. 89). ECU Health responded to Avens' Objection, explaining that this Court should adopt the Memorandum and Recommendation, grant ECU Health's Motion to Dismiss, and dispose of this case in its entirety. (D.E. 92). Because the Objection is ripe for disposition by the Court and an order granting the Motions to Dismiss will mark the end of this litigation, relief at this juncture — whether in the form of a mandatory settlement conference or otherwise — respectfully is neither appropriate nor necessary.

Respectfully submitted, this the 15<sup>th</sup> day of July, 2025.

**K&L GATES LLP**

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**CERTIFICATE OF WORD COUNT**

Pursuant to Local Rule 7.2(f)(3), the undersigned hereby certifies that the foregoing response contains fewer than 8,400 words, exclusive of the elements to be omitted from the word count per Rule 7.2(f)(1).

This the 15th day of July, 2025.

/s/ Daniel D. McClurg

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was served upon all counsel of record via the Clerk of Court's ECF system and upon Plaintiff Cynthia B. Avens via U.S. Mail, postage prepaid, at the address listed below, this July 15, 2025:

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